

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Crim. No. 24-539 DHU

LABAR TSETHLIKAI,

Defendant.

**NOTICE OF INTENT TO SEEK THE DEATH PENALTY
PURSUANT TO TITLE 18 UNITED STATES CODE SECTION 3593**

The United States of America, by Ryan Ellison, United States Attorney for the District of New Mexico, and Matthew J. McGinley and Jack Burkhead, Assistant United States Attorneys, notifies this Court and Defendant and his counsel, pursuant to Title 18, United States Code, Section 3593(a), that the government believes that the circumstances of the offense charged in Count One of the Second Superseding Indictment are such that, in the event that Defendant is convicted of this offense, a sentence of death is justified, and the government will seek the sentence of death for the offense of Kidnapping Resulting in the Death of John Doe 1, in violation of 18 U.S.C. § 1201(a)(1). If Defendant is convicted of Count One, the United States proposes to prove the following factors beyond a reasonable doubt as justifying a sentence of death.

STATUTORY THRESHOLD FACTORS UNDER 18 U.S.C. § 3591(a)

With respect to Count 1, the defendant, **LABAR TSETHLIKAI**:

- a. was 18 years of age or older at the time of the offenses charged in Count 1 (18 U.S.C. § 3591(a));
- b. intentionally killed John Doe 1 (18 U.S.C. § 3591(a)(2)(A));

- c. intentionally inflicted serious bodily harm that resulted in the death of John Doe 1 (18 U.S.C. § 3591(a)(2)(B));
- d. intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and that John Doe 1 died as a direct result of the act (18 U.S.C. § 3591(a)(2)(C)); and
- e. intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that the act constituted a reckless disregard for human life and John Doe 1 died as direct result of the act (18 U.S.C. § 3591(a)(2)(D)).

STATUTORY AGGRAVATING FACTORS UNDER 18 U.S.C. § 3592

With respect to Count 1,

- f. the death, and injury resulting in death, occurred during the commission, or attempted commission, or during immediate flight from the commission of an offense under 18 U.S.C. § 1201 (18 U.S.C. § 3592(c)(1));
- g. the defendant, **LABAR TSETHLIKAI**, has previously been convicted of 2 or more Federal or State offenses, punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person (18 U.S.C. § 3592(c)(4));
- h. the defendant, **LABAR TSETHLIKAI**, committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to John Doe 1 (18 U.S.C. § 3592(c)(6));

- i. the defendant, **LABAR TSETHLIKAI**, committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value (18 U.S.C. § 3592(c)(8));
- j. the defendant, **LABAR TSETHLIKAI**, committed the offense after substantial planning and premeditation to cause the death of a person (18 U.S.C. § 3592(c)(9)); and
- k. the victim was particularly vulnerable due to infirmity (18 U.S.C. § 3592(c)(11)).

NON-STATUTORY AGGRAVATING FACTORS

With respect to Count 1:

- a. the defendant, **LABAR TSETHLIKAI**, engaged in a pattern of predatory and sexual violence against other individuals, including John Does 2 through 11, as alleged in Counts 2 through 17 of the Second Superseding Indictment, as well as other uncharged John Does.

Respectfully submitted,

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I HEREBY CERTIFY that I on June 27, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification to defense counsel and probation.

Filed Electronically on June 27, 2025.
MATTHEW J. MCGINLEY
Assistant United States Attorney